IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 6750 of 2005

Between:

P.Saheb, E-452149, Driver, Amalapuram, Depot,
R/o.Amalapuram, East Godavari District.

..... PETITIONER

AND

1 The APSRTC, rep.by its Regional Manager,

East Godavari Region, at Rajahmundry, E.G.Dist.
2 The APSRTC, rep.by its Depot Manager,

Amalapuram, East Godavari Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents herein in imposing the punishment of reduction of basic pay of the petitioner by 2 incremental stages for a period of 2 years with cumulative effect without holding any departmental enquiry vide proc No.M1/2(1)/2002-AMP, dt.27-8-2002 which was confirmed by the appellate authority and as well as the review authority vide proc.No.PA/20(20)/03-DVM/RJY, dt.17-4-2003 and proc.No.PA/20(112)/03-RM-EG, Rajahmundry, dt.15-9-2003 respectively as illegal, unjust, contrary to well established principles of law and as such liable to be set aside by further directing the respondents to refix the pay of the petitioner by adding the deferred increments w.e.f. 27-8-2002 and to pay the arrears forthwith and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondent Nos.1 and 2: KUM.B.G.UMA DEVI

The Court at the admission stage made the following:

ORDER:

Declaring the action of the 2nd respondent in imposing major penalty vide proceedings No.M1/2(1)/2002-AMP dated 27.08.2002, as illegal and arbitrary, the present writ petition is filed.

The petitioner is working as a Driver in the respondent Corporation. He was charged for certain irregularities. He submitted his explanation. The 2nd respondent passed an order on 27.08.2002, without conducting any enquiry, by imposing a penalty of deferment of annual increment for a period of two years, which shall have effect on future increments of the petitioner. The petitioner preferred an appeal to the appellate authority and review to the review authority and the same were rejected. Hence the writ petition.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the respondents is illegal and to direct the respondents to add the deferred increments.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of two years with cumulative effect, imposed by the

2nd respondent, can be reduced with slight modification. Therefore, the impugned

order of punishment is modified as deferment of annual increment for a period of two years without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this Order, but he is entitled to get the increment on notional calculation from the date of this order, to which, he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

Dated: 30.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Regional Manager, APSRTC,

East Godavari Region, Rajahmundry,

East Godavari District

2. The Depot Manager, APSRTC,

Amalapuram, East Godavari District

3. Two CD copies

*Form-NIC-OGS/WP{**JA**}*